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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF VERMONT

3 ROBERT A. FORTUNATI, ADMINISTRATOR *
4 OF THE ESTATE OF JOSEPH FORTUNATI; *
5 ROBERT A. FORTUNATI and SUSAN *
6 FORTUNATI; and MARK FORTUNATI *
7 *

8 vs. *

9 Civil No.
10 1:07-cv-143
11 *

12 ANDREW CAMPAGNE, MARC THOMAS, JEREMY *
13 HILL, TODD PROTZMAN, ROB SNETSINGER, *
14 KARL GARDNER, HUGH O'DONNELL, *
15 MIKE DUDLEY & WALTER GOODELL *

16 D E P O S I T I O N

17 of

18 ANDREW CAMPAGNE

19 Taken on behalf of the Plaintiffs on
20 Monday, May 11, 2009, at the
21 Office of the Attorney General,
22 Montpelier, Vermont.

23 APPEARANCES:

24 GEORGE E. SPANEAS, ESQ., of the firm Clauson, Atwood &
25 Spaneas, 10 Buck Road, Hanover, New Hampshire, 03755,
 appeared and represented the Plaintiffs.

26 KATE DUFFY, ESQ., of the Office of the Attorney
27 General, 109 State Street, Montpelier, Vermont,
28 05609-1001, appeared and represented the Defendants.

29 ALSO PRESENT: Susan Fortunati

30 COURT REPORTER: Lisa M. Hallstrom, RPR, CRR, CCP

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1 (Commencing at approximately 9:26 a.m.)

2 ANDREW CAMPAGNE: Being first duly sworn by a
3 Notary Public to tell the truth,
deposes and says as follows:

4 E X A M I N A T I O N

5 BY MR. SPANEAS:

6 Q Okay. Sir, just please state and spell your name
7 so we have it.

8 A Andrew Campagne, C-A-M-P-A-G-N-E.

9 Q Campagne is how it's pronounced?

10 A Companion.

11 Q Companion?

12 A Yes, sir, but I go by Campagne.

13 Q You go by Campagne?

14 A Uh-huh.

15 Q Okay. How many times on June 24, '06, did you
16 fire your weapon at Joseph Fortunati?

17 A One time, sir.

18 Q Okay. And how do you know it was one time?

19 A Because I know it was one time, sir. I only
20 pulled the trigger one time.

21 Q All right. What kind of weapon did you have?

22 A It was an M4.

23 Q Now does the M4 have some switch that allows you
24 to pull the trigger once and only one bullet will come
25 out, set the switch to another setting and three

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1 A Yeah, I believe so, sir.

2 Q Okay. So how did you find out that you were
3 going to be giving a second interview?

4 A I was told to report to -- to Royalton barracks
5 to -- to give this interview.

6 Q Okay. Who told you to report there?

7 A I don't know.

8 Q Okay. Do you recall what they said, whoever it
9 was that told you to report there? Did they say just
10 show up for a second interview or did they say there
11 are things that --

12 A I don't know, sir.

13 Q Don't remember.

14 All right. Now in this Exhibit 2, this would --
15 this is -- reflects a second interview you had with
16 Mr. LaPorte. I think we've established that, right?

17 A Yes, sir.

18 Q Okay. And now in -- on page 108 if I draw your
19 attention there, sort of at the top, you see the
20 sentence there, after he was struck by the bean bag
21 the deceased reached in his waistband and pulled out a
22 gun, period. He began raising it from his waist,
23 period.

24 Do you see that?

25 A Yes.

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1 MS. DUFFY: Objection.

2 A I don't know.

3 Q All right. Was there like 10 or 15 feet between
4 you and Snetsinger and Mr. Thomas?

5 A I don't know, sir.

6 Q Was there two feet?

7 A Sir, I don't know.

8 Q Okay. But you do recall that -- did Joe point at
9 Snetsinger and then move and point at you and then
10 move and point at Thomas or was it just sort of like a
11 sweeping of his arm?

12 A I can't recall that, sir.

13 Q Now did you ever make a statement to Mr. LaPorte
14 or in your first or second interview that you saw Joe
15 point a gun at Mr. Snetsinger?

16 A No, sir.

17 Q When you -- in the beginning of the mission
18 before any shots were fired did you -- did there come
19 a time when you heard Mr. Snetsinger make contact with
20 Joe?

21 A Could you start that again?

22 Q Sure. When you began the mission, when you guys
23 are heading up the trail --

24 A Okay.

25 Q -- and sort of you disperse in the woods?

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1 A Right.

2 Q You guys separate a little bit into two groups,
3 right? We know that?

4 A Yeah.

5 Q My understanding is the first person who made
6 verbal contact with Joe was Mr. Snetsinger.

7 A Yes, sir.

8 Q Does that jive with your recollection?

9 A Yes, sir.

10 Q All right. That's what I'm going to ask you
11 about --

12 A Okay.

13 Q -- that piece for right now. Did you hear
14 Mr. Snetsinger make contact -- verbal contact with
15 Joe?

16 A Yes.

17 Q Okay. When you heard Mr. Snetsinger make contact
18 with Joe, and we'll call this the first contact, were
19 you able to -- were you able to see Joe when
20 Mr. Snetsinger made contact?

21 A I don't believe I did initially.

22 Q Okay. How do you know that -- how were you able
23 to determine that Mr. Snetsinger had made verbal
24 contact with Joe?

25 A I could hear him through the woods.

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1 A Okay.

2 Q And just for the record, you're refreshing your
3 memory by reviewing your report?

4 A Yes. I want to get exactly what he said.

5 Q Okay.

6 A Trooper Snetsinger had asked him to come to him.

7 Q Okay. So you heard Trooper Snetsinger say
8 words --

9 A Come -- come to me.

10 Q Come to me?

11 A Yes.

12 Q Okay. And you heard Joe respond to that?

13 A Joe said, come to me.

14 Q Okay. Did Joe identify himself?

15 A Yes.

16 Q Did he say my name is Joe or just answer yes to
17 Snetsinger's question are you Joe? If you remember.

18 A At the time I heard him say Joe.

19 Q Okay. Do you know if Joe at any time during this
20 conversation with Mr. Snetsinger waved to
21 Mr. Snetsinger?

22 A I don't know.

23 Q Okay. When you first heard this contact between
24 Mr. Snetsinger and Joe, what were you doing? Were you
25 standing still wherever you were located or were you

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1 and your team continuing to move?

2 A We were moving.

3 Q Okay. And where was it that you were headed?

4 Was there some goal or landmark, plan of where you
5 guys were going?

6 A We were moving to the side of the campsite.

7 Q Okay. You had an idea of where the campsite was
8 before the mission?

9 A Yes.

10 Q And you were trying to get up around towards the
11 side of the campsite?

12 A Yes, sir.

13 Q All right. Do you recall what Mr. Snetsinger's
14 tone of voice was when he was talking to Joe?

15 A Conversational.

16 Q Conversational?

17 A Yes, sir.

18 Q Okay. And do you recall what Joe's tone of voice
19 was when he identified himself as Joe and said you
20 come to me?

21 A Confrontational.

22 Q Confrontational?

23 A Yes, sir.

24 Q Okay. And you think it was confrontational just
25 by the manner that he spoke those words, the -- the

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1 volume? Why do you say confrontational?

2 A The tone that he used made my impression to be
3 that he was challenging him.

4 Q That's how you viewed it?

5 A Yes, sir.

6 Q All right. So as you and your group -- and who
7 was in your group? You, Mr. Thomas?

8 A Trooper Hill, and I don't recall who the other
9 member was.

10 Q Okay. And how were you guys -- when you were
11 approaching Joe's tent, what formation were you guys
12 in?

13 A I believe we were one behind -- in a file, one
14 behind the other.

15 Q Okay. And were you the last one in that line?

16 A I was, sir.

17 Q All right. And when your group began proceeding
18 up to get on to the side of Joe's campsite there came
19 a time when you heard Mr. Thomas make contact with
20 Joe, is that true?

21 A Yes, sir.

22 Q Were you able to see Joe and Mr. Thomas when
23 Mr. Thomas made contact with Joe?

24 A Yes.

25 Q Okay. How close were Joe and Mr. Thomas when

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1 they made contact with each other?

2 A I can't estimate that distance at this time, sir.

3 Q Okay. How close were you? Were you like side by
4 side to Mr. Thomas or were you still in a single file?

5 A I believe I was behind Sergeant Thomas.

6 Q Okay. But, at any rate, you were able to see
7 Joe?

8 A Yes, sir.

9 Q All right. What was Joe doing when Mr. Thomas
10 first made contact with Joe?

11 A I believe he was -- he had backed away from
12 Trooper Snetsinger. As their element approached him,
13 he kept moving back behind the camp -- the campsite,
14 so he was behind, which I believe is -- was his
15 vehicle, that's where Sergeant Thomas had made contact
16 with him.

17 Q Okay. And when you saw -- when you saw Joe -- so
18 my question was -- I think my question was what was
19 Joe doing when you first saw Thomas make contact with
20 Joe? Was he backing -- backing up towards your group,
21 or had he stopped, was he pacing?

22 A He was pacing back and forth, sir.

23 Q Okay. Did you hear what Mr. Thomas was saying to
24 Joe at that time when Thomas made contact with Joe?

25 A Yes.

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1 Q Okay. And, again, you're referring to your
2 report. Do you not have an independent recollection?

3 A I can't recall that at this time, sir.

4 Q All right. So tell us in referring to your
5 report, what did you hear Mr. Thomas say?

6 A Sergeant Thomas had asked him to show his hands
7 and then he -- he wouldn't comply with that. And then
8 Sergeant Thomas advised him to come to us, and he
9 wouldn't comply with that either.

10 Q And was Joe pacing at that time?

11 A According to the report, yes, sir.

12 Q Okay. Do you know where he was -- where he was
13 pacing, like to and from? When I think of pacing I
14 think of walking a few steps in one direction, then
15 walking back in the opposite direction. Is that what
16 you recall or was it in a circle?

17 A I don't know, sir.

18 Q You don't know. All right. Did Joe stop and
19 stand still at any point?

20 A I don't know, sir.

21 Q Do you know where Mr. Hill was at the time that
22 Mr. Thomas made verbal contact with Joe?

23 A No, sir.

24 Q Okay. When you saw Joe at the time that
25 Mr. Thomas first made contact with Joe did you see Joe

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1 with a gun in his hand?

2 A No, sir.

3 Q Or any other weapon in his hand?

4 A I don't believe so, sir.

5 Q Okay. Did Joe -- when Mr. -- when Mr. Thomas
6 first made contact with Joe did Joe make any
7 physically threatening moves towards Mr. Thomas or
8 other TSU members?

9 A Not that I can recall, sir.

10 Q Okay. Do you recall at least -- strike that.

11 Your report indicates that after Mr. Thomas had
12 made some contact with Joe, Joe then began to run into
13 the woods?

14 A Yes, sir.

15 Q Okay. And then I think your report says then
16 Mr. Hill or someone discharged a bean bag?

17 A I didn't say that Sergeant Hill had -- or Trooper
18 Hill had discharged it, I just said I heard a shotgun
19 discharge.

20 Q Okay. You heard a shotgun discharge?

21 A Yes, sir.

22 Q All right. At least as your report indicates,
23 the first time you mention hearing a shotgun discharge
24 was after you said Joe began running into the woods,
25 is that fair? Does your report indicate that?

1 you're saying.

2 Q Okay. Do you know why the first bean bag that
3 you report was discharged at Joe?

4 A I wasn't the one with the shotgun, sir.

5 Q Okay.

6 A How could I make that determination?

7 Q I'm just asking if you know, like if you heard --
8 if someone said, yeah, I shot the bean bag because of
9 this?

10 A No one's ever said that to me.

11 Q You don't know why?

12 A No.

13 Q Okay. So Joe then, as I understand it, went into
14 the woods on the opposite side of the trail of the
15 field?

16 A Yes, sir.

17 Q All right. And what -- what did you do next when
18 that happened?

19 A We were -- we moved into the woods behind him.
20 We were chasing him, and that's -- you know, we went
21 into the woods and it became -- what's the word I'm
22 looking for? We -- I was concerned we were going to
23 be lost because the woods was fairly thick there and
24 we were becoming separated.

25 Q Okay. Why did you -- why did you chase Joe into

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1 the woods when he went in the woods?

2 A To keep contact with him.

3 Q Did anybody, like Mr. Thomas or -- Mr. Thomas, I
4 understand, is the team leader, is that right?

5 A Yes, sir.

6 Q Did Mr. Thomas instruct or order the guys to
7 follow through the woods?

8 A Sergeant Thomas didn't tell us to follow him
9 through the woods.

10 Q He did not?

11 A No.

12 Q You just did it?

13 A Yes.

14 Q Okay. What did you see while you were in the
15 woods chasing Joe? Tell me what you saw. Could you
16 see other TSU members?

17 A Yes. I saw -- there was one other person in
18 front of me that I was trying to keep contact with.

19 Q Do you know who that other person was?

20 A No, sir.

21 Q Okay. Did there come a point in time where any
22 of the TSU members met up with each other in the woods
23 and --

24 A No, sir. We were -- no.

25 Q No?

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1 Okay. Mr. Snetsinger and Mr. Thomas didn't meet
2 each other up in the woods?

3 A I don't know, sir.

4 Q Were you able to see Joe at any time when you
5 were in the woods?

6 A No, sir.

7 Q Did you hear any TSU members communicating while
8 you were in the woods during this chase?

9 A I can't recall, sir.

10 Q Okay. If you review your report, I just want to
11 make sure that I'm not missing anything so -- I
12 understand that you're referring to your report for a
13 lot of your recollection, and I just want to make sure
14 when I ask the question, if you don't recall, you
15 don't recall.

16 A While we were in the wood line we did not have
17 any conversations is all I can recall, sir --

18 Q Okay.

19 A -- or according to the report.

20 Q Okay. How long were you in the woods for during
21 that chase?

22 A I don't know, sir.

23 Q After the wood chase was the next place you saw
24 Joe near his car and tent?

25 A Yes, sir.

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1 A I don't know, sir.

2 Q Does it help if you refer to your report?

3 A It doesn't say that I can see any other troopers.

4 Q Okay. And what happened when you saw Joe at the
5 driver's -- well, strike that.

6 When you saw Joe at the driver's side, was he
7 standing up? Was he crouched down? What position was
8 he in?

9 A He was bent over, sir.

10 Q In what direction?

11 A Into the vehicle.

12 Q Okay. You saw the upper part of his body in the
13 vehicle?

14 A It doesn't say whether it was his upper body.
15 I -- yes, sir, I would say it was his upper body.

16 Q Okay. And did you see what he was doing in the
17 vehicle?

18 A He had an item in his hand.

19 Q Okay. Were you able to identify the item that
20 was in his hand?

21 A No, sir.

22 Q Did you say anything to Joe while you observed
23 him in the driver's side area of the car while you
24 were on the passenger's side?

25 A I don't recall, sir, and I did not annotate that

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1 A I can't recall, sir.

2 Q Okay. What did -- what did you observe Joe do
3 next?

4 A He then ran from the vehicle.

5 Q Okay. And where did Joe go?

6 A He ran away from me, which would have been -- if
7 you're looking at the vehicle, it would have been --
8 he -- he was standing on the driver's side, he would
9 have done a 180 turn and ran away from me towards
10 where he ended up at the tree.

11 Q Okay. Now did you see Mr. Thomas at that point
12 when Joe began heading towards the tree at the edge of
13 the field?

14 A Yes, I could see Sergeant Thomas in the field.

15 Q Okay. And what was Mr. Thomas doing, do you
16 recall?

17 A He was having a conversation with Mr. Fortunati.

18 Q Okay. And you could see Mr. Thomas at that time?

19 A Yes.

20 Q Could you see Joe at that time?

21 A I believe so.

22 Q You didn't see Joe at that time with any gun in
23 his hand or pointing any gun at Mr. Thomas, did you?

24 A No.

25 Q Now on page 101 of the report that you made,

1 Q Okay. Do you know if he was pointing his weapon
2 at Joe at that time?

3 MS. DUFFY: Objection.

4 A I can't recall.

5 Q Can't recall. Do you have any idea what
6 Mr. Thomas meant by we did not have to do this? Do
7 you know what this is? What's this? We do not have
8 do this?

9 A This would be the situation, I would imagine.

10 Q Was Mr. Thomas moving towards Joe's direction
11 while he said that?

12 A I don't know. I can't remember.

13 Q Okay. Could you see any other TSU members at
14 that point?

15 A Trooper Snetsinger was off to my right.

16 Q Did you communicate at any time -- after the wood
17 chase and you got back to the car, at that point in
18 time did you communicate with any other TSU members?

19 A I heard someone yell he had a gun or gun or
20 something like that, and I also responded -- I
21 communicated that to everybody so everybody knew.

22 Q Okay. Other than that, did any of the TSU
23 members talk about what to do or what not to do or how
24 to approach at that point in time, when you came out
25 of the woods from the chase and were back at the car

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1 area?

2 A No.

3 Q Now after Joe came out of the car and you were on
4 the passenger's side -- you saw Joe come out of the
5 car, and then he goes in the field towards the -- the
6 tree at the edge of the field did you ever hear
7 Mr. Thomas or any other TSU member tell Joe to drop
8 his gun?

9 A No.

10 Q Okay. Just take a look at Exhibit 2, your second
11 interview that you gave with Mr. LaPorte on June 30th
12 on page 107. It's the first full paragraph, and it
13 looks like it's about the third line up from the first
14 full paragraph. Yeah, she's pointing in the right
15 direction.

16 MS. DUFFY: Did you read the incident?

17 MR. SPANEAS: Yeah. The next sentence
18 down. Or let's start next sentence up.

19 BY MR. SPANEAS:

20 Q During the incident the deceased walked into a
21 field next to the campsite, comma, Sergeant Thomas
22 told the deceased to drop the gun and heard Sergeant
23 Thomas say we don't need to do this.

24 Did I read that sentence correctly?

25 A Yes, sir.

1 Q All right. Does that jog your recollection as to
2 whether or not you heard Thomas or anyone tell Joe,
3 drop the gun?

4 A No, sir. I can't recall at this time. I have --
5 when I made this first statement I must have recalled
6 it at that time, but I do not recall it at this time.

7 Q Okay. Do you have any reason to believe that you
8 didn't -- did not tell Mr. LaPorte what we just read?

9 A I don't get your question, sir.

10 Q Do you have any reason to believe that
11 Mr. LaPorte recorded that you said that when in fact
12 you didn't say that?

13 A I don't have any reason to believe Lieutenant
14 LaPorte would do that.

15 Q Okay. Now there did come a time when you were
16 able to see Joe by a tree, is that right? I think we
17 talked about that, that you saw he was by a tree?

18 A Yes, sir.

19 Q All right. Do you have any recollection of where
20 you were located with respect to where the tree was
21 that Joe was at?

22 A It would have been between the road that his
23 vehicle was on and the tree.

24 Q Okay. You were able to see Joe's hands, is that
25 true?

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1 the wood line would start as well?

2 A Yes, sir.

3 Q Okay. Now it looks like you -- what's this here?

4 A That would be where Sergeant Thomas was.

5 Q Okay. The M is for?

6 A Marc.

7 Q Marc Thomas?

8 A Yes.

9 Q Okay. And were you able to see at all where
10 Mr. O'Donnell was during all of this?

11 A I can't recall where Trooper O'Donnell was, sir.

12 Q What about Trooper Paquette?

13 A I don't know, sir.

14 Q What about Mark Magnant?

15 A I don't know, sir.

16 Q Are you sure that the M doesn't mean Mark Magnant
17 as opposed to Marc Thomas?

18 A I don't know.

19 Q You don't know.

20 A I would assume it was Marc Thomas.

21 Q What about Jeremy Hill, do you know where Jeremy
22 Hill was during all of this?

23 A No, sir.

24 Q Okay. You recall that Joe, while he was by the
25 tree after Snetsinger fired his shot, that he --

1 according to your statement, he pulled out a gun from
2 his waistband, is that right?

3 A You're saying that after Trooper Snetsinger hit
4 him with the bean bag he pulled out a gun, sir, is
5 that what you're saying?

6 Q Yeah.

7 A Yes.

8 Q Yeah. Actually, I'm not saying it, I'm saying
9 that's what you reported.

10 A Yes, sir.

11 Q Okay. Do you recall when you saw that -- I
12 assume you saw it. Did you see that?

13 A Did I see what, sir?

14 Q Did you see Mr. Snetsinger hit Joe with the bean
15 bag?

16 A I didn't see him hit him with the bean bag. I
17 heard him shoot.

18 Q Okay. Did you see Joe take a gun out of his
19 waistband after you heard Mr. Snetsinger shoot?

20 A Yes, sir.

21 Q Okay. Do you know which hand he removed the gun
22 with?

23 A I don't -- don't recall, sir.

24 Q Okay. Do you recall if he had two hands on the
25 gun or one hand on the gun?

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1 the article in that about that.

2 Q Do you have -- did anybody from the state police
3 explain to you why Bob was arrested or -- or -- when
4 it occurred?

5 A That he had just come to the scene, and I don't
6 know what happened beyond that. I was more involved
7 with all of that.

8 Q Prior to the mission you arrived at the Bradford
9 barracks before you set out on the mission, is that
10 right?

11 A Yes, sir.

12 Q Okay. And I think in your report you said that
13 when you arrived at the barracks you met with
14 Mr. Thomas or had a conversation with Mr. Thomas?

15 A Yes, sir.

16 Q What was that conversation about?

17 A Basically it was what equipment I was going to
18 need for the mission that day.

19 Q Okay. Did Mr. Thomas tell you anything about the
20 nature of the incident or was it a brief -- let me
21 start again.

22 When you first arrived at the Bradford barracks
23 did you talk to Mr. Thomas prior to the time that
24 there was a briefing?

25 A Yes.